

Central Administrative Tribunal, Principal Bench

O.A. 159/99

New Delhi, this the 1st day of November, 2000

Hon'ble Mr. Kuldip Singh, Member (J)
Hon'ble Mr. M.P. Singh, Member (A)

Mahender Prasad Singh
Ex-Head Constable No. 305/P
S/o late Shri Gurcharan Singh
R/o D-31/9-A, Gawadi Extension
Bhajanpura, Delhi

.... Applicant

(By Advocate: Shri Sama Singh)

Versus

1. Lt. Governor
National Capital Territory of Delhi
Raj Niwas Marg, Delhi

2. Commissioner of Police
Delhi Police Headquarters,
MSO Building, I.P. Estate
New Delhi-110002

3. Joint Commissioner of Police (Operations)
Delhi Police Headquarters
M.S.O. Building, I.P. Estate
New Delhi-110002

4. Deputy Commissioner of Police
I.G.I. Airport,
New Delhi

.... Respondents

(By Advocate: Shri Rajinder Pandita)

ORDER (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant, an Ex-Head Constable of Delhi Police has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985, wherein he has prayed for the following reliefs:-

(i) Order No. 5585-5665/HAP/(IGIA/P-I, dated 26.9.95 passed by Shri Rajesh Kumar, the then Dy. Commissioner of Police, IGI Airport, New Delhi (Respondent No. 4.);

(ii) Order No. 143-45/PA-P&L dated 17.5.96 passed by Shri Ajay Agrawal, Senior Addl. Commissioner of Police (Planning and Implementation), New Delhi (Respondent No. 3);

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(iii) Order No.F.16/133/96/14356-57/CR.I dated 2.7.97 passed by Shri T.R.Kakkar, the then Commissioner of Police (Respondent No.2), and

(iv) Memo No.8404/HAP/IGIA(P-II) dated 15.9.98 vide which the Applicant has been communicated that his representation has been rejected by the Lt.Governor of Delhi (Respondent No.2) may kindly be ordered to be quashed and the applicant be reinstated in service from the date of dismissal viz. 29.6.95 with all consequential benefits of pay and allowances and seniority etc.."

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2. The applicant was proceeded departmentally on the allegation that on the night intervening 15/16.7.94 when he was performing duty at Indira Gandhi Airport, Terminal - II, New Delhi alongwith one Shri Jacob George, Traffic Warden, he harassed one Shri Dilawar Singh s/o Shri Jagga, R/o Mehtabpur (Punjab) for his entry in the Airport Building and extorted a sum of Rs.100/- from him. After the enquiry was completed, the enquiry officer arrived at the finding that charge against the applicant was proved. On the basis of findings given by the enquiry officer, the disciplinary authority passed the impugned order of removal from service, which was later confirmed by the appellate authority and the revision authority.

3. We have heard learned counsel for the parties and gone through the records.

4. Shri Sama Singh, learned counsel for the applicant submitted that no eye witness was produced by the respondents during the departmental enquiry to prove the guilt of the applicant. Secondly, he also submitted that applicant was forced to make confession by the Asstt. Commissioner of Police that he had extorted Rs.100/-

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from the passenger named Shri Dilawar Singh. Shri Sama Singh has further contended that the enquiry officer has given undue weight to the confession made by him under pressure and in a disturbed state of mind and, therefore, it should not have been relied upon by the enquiry officer. (9)

5. Learned counsel for the applicant tried to persuade us to re-appreciate the evidence in this case but the Tribunal, in exercise of its power of judicial review, cannot re-appreciate the evidence and the findings arrived at by the enquiry officer until and unless the findings are perverse and are based on no evidence at all.


6. In this case, since the applicant has himself made an admission that he took a sum of Rs.100/- as illegal gratification from Shri Dilawar Singh and that too, in the presence of S/Shri Subhash and Ghansahm, Constables and Shri Durgesh Dutt, Head Constable, so it cannot be said to be a case of no evidence. Moreover, principle of admissibility of confessional statement in a trial under criminal case do not apply to proceedings in departmental enquiries.

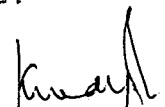
7. Shri Sama Singh further submitted that punishment awarded to the applicant is quite harsh in comparison to the alleged misconduct of the applicant. However, we find that the Tribunal should not interfere in the matter of awarding of punishment unless it is against all canons of justice and shocks our judicial conscience.

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8. As observed by us in the preceding paragraphs, the applicant had admitted his guilt in the presence of his three colleagues and under these circumstances, we find ourselves unable to interfere in the impugned orders.

The O.A. is, therefore, dismissed. No costs.


(M.P. Singh)
Member (A)


(Kuldip Singh)
Member (J)

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